

REMARKS

Claim Amendments

Claims 37-72 are pending and under examination. Applicants have amended claims 37 and 54. Support for the amendments can be found in the specification at, for example, p. 29, lines 2-10. No new matter has been introduced.

Final Office Action

Applicants respectfully traverse the following actions:

(a) rejection of claims 37-39, 46-51, 54-56, 63-68, 71, and 72 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,878,231 ("Baehr") in view of U.S. Patent App. Pub. No. 2004/0172557 ("Nakae"); and

(b) rejection of claims 40-45, 52, 53, 57-62, 69, and 70 under 35 U.S.C. § 103(a) as being unpatentable over Baehr in view of Nakae and further in view of U.S. Patent No. 7,331,061 ("Ramsey").

Rejection of Claims 37-39, 46-51, 54-56, 63-68, 71, and 72 under 35 U.S.C. § 103(a)

Applicants request reconsideration and withdrawal of the rejection of claims 37-39, 46-51, 54-56, 63-68, 71, and 72 under 35 U.S.C. § 103(a) as being unpatentable over Baehr in view of Nakae. See Final Office Action, pp. 5-13.

Amended independent claim 37 recites, in part, "running said communication entities directed toward said test system on said test facilities to detect possibly adverse effects on said test system, without providing a response, by said test facilities, to said communication entities" (emphasis added) (with similar features recited in amended independent claim 54).

Baehr and Nakae, whether taken alone or in combination, do not teach or suggest the above-quoted features of claim 37. In contrast, Baehr discloses that

[i]f the packet's intended destination is a host machine on the private network, it may instead be sent aside to a preconfigured host machine on the proxy network, which executes appropriate operations that the actual host would execute, or different operations as desired. The

proxy host generates responses using the IP address of the actual host, so the existence of the proxy network is not detectable.

Baehr, col. 2, lines 25-31 (emphasis added). Thus, Baehr's alleged "test facilities," i.e., the proxy hosts included in the proxy network, provide responses to the packet received from a public network. Accordingly, Baehr teaches away from claims 37 and 54.

Nakae does not cure the deficiencies of Baehr. The Final Office Action alleged that Nakae's "decoy unit 2" constitutes the claimed "test facilities." *See* Final Office Action, pp. 3-4. Nakae, however, discloses that "[t]he decoy unit 2 detects the presence or absence of attacks and, when having detected some attack, it outputs an alert to the firewall unit 1. Furthermore, it may create a counterfeit response packet to the unauthorized packet and return the counterfeit response packet to the firewall unit 1." Nakae, ¶ [0104] (emphasis added). Nakae, therefore, also teaches away from claims 37 and 54.

Accordingly, Baehr and Nakae, whether taken alone or in combination, do not render independent claims 37 and 54 obvious. Thus, claims 37 and 54 should be allowable over Baehr and Nakae. In addition, dependent claims 38, 39, 46-51, 55, 56, 63-68, 71, and 72 should be allowable at least by virtue of their respective dependence from base claim 37 or 54, and because they recite additional features not taught or suggested in Baehr and Nakae. Accordingly, Applicants request withdrawal of the rejection.

Rejection of Claims 40-45, 52, 53, 57-62, 69, and 70 under 35 U.S.C. § 103(a)

Applicants request reconsideration and withdrawal of the rejection of claims 40-45, 52, 53, 57-62, 69, and 70 under 35 U.S.C. § 103(a) as being unpatentable over Baehr in view of Nakae and further in view of Ramsey. *See* Final Office Action, pp. 13-18.

As explained above, Baehr and Nakae teach away from "running said communication entities directed toward said test system on said test facilities to detect possibly adverse effects

on said test system, without providing a response, by said test facilities, to said communication entities,” as recited in independent claim 37 (emphasis added) (with similar features recited in independent claim 54).

Ramsey does not cure the deficiencies of Baehr and Nakae, because Ramsey does not teach or suggest, among other features, “running said communication entities directed toward said test system on said test facilities to detect possibly adverse effects on said test system, without providing a response, by said test facilities, to said communication entities,” as recited in claim 37 (emphases added) (with similar features recited in claim 54).

Therefore, Baehr, Nakae, and Ramsey, taken alone or in any combination, do not render independent claims 37 and 54 obvious. Thus, claims 37 and 54 should be allowable over Baehr, Nakae, and Ramsey. In addition, dependent claims 40-45, 52, 53, 57-62, 69, and 70 should be allowable at least by virtue of their respective dependence from base claim 37 or 54, and because they recite additional features not taught or suggested in Baehr, Nakae, and Ramsey. Accordingly, Applicants respectfully request withdrawal of the rejection.

Conclusion

Applicants request reconsideration and withdrawal of the rejections. Pending claims 37-72 are in condition for allowance, and Applicants request a favorable action.

The Final Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statements are identified herein, Applicants decline to automatically subscribe to any such statements or characterizations.

If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

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